

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WILLIAM A. DEPARDO,  
Plaintiff

V.

MFS/SUN LIFE FINANCIAL  
DISTRIBUTORS, INC. d/b/a SUN LIFE OF  
CANADA and TAC WORLDWIDE  
COMPANIES,  
Defendants

CIVIL ACTION 04-10248DPW

**STATEMENT OF THE PARTIES PURSUANT TO LOCAL RULE 16.1**

**I. Statement Of The Case**

This is an action in which the plaintiff, William A. DePardo (“DePardo”), contends that he is entitled to recover long term disability (“LTD”), short term disability (“STD”) and life insurance (“Life”) benefits under an employee welfare benefit plan (the “Plan”) subject to the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1132. Mr. DePardo alleges that the defendants, Sun Life of Canada (“Sun Life”), underwriter of the LTD and Life benefits under the Plan, and TAC Worldwide Companies (“TAC”), Mr. DePardo’s employer and underwriter of the STD benefits under the Plan, have unlawfully denied him benefits. Sun Life and TAC have denied these allegations.

**II. Standard Of Review**

**Plaintiff’s Position:**

The plaintiff contends that the *de novo* standard of review applies with regard to Mr. DePardo's claim that he was unlawfully denied long-term disability benefits. In the alternative, Mr. Depardo contends that Sun Life's decision to deny him long-term disability benefits was

unreasonable in light of the information made available to it. The plaintiff contends that in regard to his claim for short-term disability benefits and life insurance benefits, the *de novo* standard of review applies.

Defendants' Position:

Defendants contend that the arbitrary and capricious standard of review applies. See Brigham v. Sun Life of Canada, 317 F.3d 72, 81-82 (1<sup>st</sup> Cir. 2003); Brigham v. Sun Life of Canada, 183 F.Supp.2d 427, 435 (D.Mass. 2002); Metropolitan Life Ins. Co. v. Socia, 16 F. Supp.2d 66, 69 (D. Mass. 1998); Miller v. Wang Laboratories, Inc., 998 F. Supp. 78, 80 (D. Mass. 1998); Guarino v. Metropolitan Life Ins. Co., 915 F. Supp. 435, 443 (D. Mass. 1995).

**III. Proposed Pre-Trial Schedule**

1. Amendments to the pleadings by July 14, 2004.
2. The parties agree that, pursuant to Fed. R. Civ. P. 26(a)(1)(E)(i), this is "an action for review on an administrative record" and neither an initial disclosure nor discovery is necessary. The parties will submit an agreed upon administrative record. In the event TAC and DePardo do not agree on an administrative record for Depardo's claim for STD benefits, some limited discovery may be necessary regarding DePardo's compensation prior to disability.
3. All motions for summary judgment to be filed by November 31, 2004. Responses to be filed by December 15, 2004.
4. Hearing on motions for summary judgment to be held on March 15, 2005.

**IV. Magistrate**

The parties do not agree to have this case referred to the magistrate judge.

**V. Certifications**

Certifications pursuant to Local Rule 16.1(D)(3) will be submitted and filed with the Court at or before the Scheduling Conference.

WILLIAM A. DEPARDO

By his attorney,

/s/ Nicholas S. Guerrero/jps

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Dated: May 28, 2004

TAC WORLDWIDE COMPANIES

By its attorneys,

/s/ Robert M. Shea/jps

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Dated: May 28, 2004

SUN LIFE OF CANADA

By its attorneys,

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Dated: May 28, 2004